

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA

vs.

LARRY BOYD MALLORY (23)

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Case No. 4:04cr106
(Judge Schell)

REPORT AND RECOMMENDATION **OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on November 3, 2011, to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by Tracey Batson.

On April 1, 2005, Defendant was sentenced by the Honorable Richard A. Schell to eighty-seven (87) months' custody followed by five (5) years of supervised release for the offense of Conspiracy to Possess with Intent to Distribute Cocaine Base. On April 10, 2009, Defendant completed his period of imprisonment and began service of his supervised term.

On August 29, 2011, the U.S. Probation Officer executed a Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated the following mandatory condition: the defendant shall not commit another federal, state, or local crime. Violation allegations two, three, and four were dismissed by the Government.

The petition alleges that Defendant committed the following acts: On August 29, 2011, Defendant was arrested in Lamar County, Texas, by the Paris Police Department for Resisting Arrest Search or Transport, a Class A Misdemeanor. Defendant entered a plea of guilty to this charge.

Prior to the Government putting on its case, Defendant entered a plea of true to the one

violation. The Court recommends that Defendant's supervised release be revoked.

RECOMMENDATION

The Court recommends that the District Judge revoke Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of six (6) months with no supervised release to follow. This sentence should be served consecutively to any sentence of imprisonment the Defendant is currently serving.

After the Court announced the recommended sentence, Defendant executed the consent to revocation of supervised release and waiver of right to be present and speak at sentencing. Defendant and the Government also waived their right to file objections.

SIGNED this 4th day of November, 2011.



AMOS L. MAZZANT
UNITED STATES MAGISTRATE JUDGE